

THE BORDER SECURITY AND IMMIGRATION REFORM ACT OF 2003

Section-by-Section Summary

Section 1. Short Title

Section 2. Definitions

Title I-Authorization for Establishment of Guestworker Programs

Section 101. Guestworker Programs

The DHS and State Secretaries shall establish a guest worker program with eligible foreign countries. Eligible countries must enter into agreements with the U.S. to develop standards of enrollment, procedures for providing health care, training of workers and monitor information regarding departure and return of workers.

Individuals may work in the U.S. on a seasonal or nonseasonal basis. Seasonal workers are authorized to stay 9 months at a time. Nonseasonal workers are authorized a full 12 months, not to exceed 36 months total. Workers are able to travel across borders while in the program and will be provided a photo ID. The Secretaries of DHS and State shall establish and maintain a computer database for entry and exit of workers. Workers are able to apply for legal permanent residence status after 3 years in the program and from their home country.

Workers who apply to the program as undocumented workers must show proof of residency in U.S. by date of enactment and employment. A worker in the program is absolved of all prior illegal behavior relating to their immigration status.

Workers are ineligible for participation in the program if under the age of 18, a convicted felon or who comes to the U.S. illegally after the date of enactment.

The DHS Secretary shall establish an evaluation system to give priority to guestworkers' applying for LPR based on their participation in the program.

Section 102. Employer Applications and Petitions for Guest Workers

Employers seeking temporary guest workers must apply/file with Labor Department with information on jobs including nature of work, anticipated period and wages to be paid. The employer shall attest to the Labor Secretary that they are insufficient workers to perform these jobs and that hiring guestworkers will not adversely affect the wages and working conditions of U.S. workers. The employer must advertise the job and pay at least the minimum wage to guestworkers.

The Labor Secretary will compile a list (by employer and job classification) of the applications filed. Once applications are reviewed and certified, the Labor Secretary will transmit a report to the employer containing the name, contact information and specific work permit information of each guest worker authorized to perform the work.

The Secretary will recommend adjustments to the size of the guest worker program based on the regional economic assessments. The DHS Secretary, in consultation with the determinations by the Secretary of Labor regarding regional economic conditions and the size of the guest worker program, may annually adjust the total number of green cards available.

Any employer in the guestworker program that violates labor and safety laws will be subject to the same penalties as if employing U.S. citizens as well as being debarred from participation in the guestworker program for up to 10 years. An employer in the program shall be absolved of all prior illegal behavior as pertains to the immigration status of employees.

Section 103. New Nonimmigration Guest Worker Categories

The Immigration and Nationality Act is amended by adding category (W)(i) for seasonal and nonseasonal guestworkers.

Section 104. Prohibition on Adjustment of Status to Permanent Resident Status

Any guestworker employed less than 3 years or has violated the terms of the program is prohibited from adjusting their immigration status to legal permanent residence.

Section 105. Guest Worker Investment Accounts

The Treasury Secretary shall quarterly transfer S.S. and Medicare taxes from guestworkers into an investment account. The investment accounts will be the property of the guest worker and be invested in funds created and managed by the Secretary of the Treasury. The guest worker can access these investment accounts **only** after the worker permanently leaves the program and returns to their home country. These accounts are exempt from taxation in the U.S.

Title II-Adjustment of Status of Certain Unlawfully Present Aliens to Nonimmigrant Guest Worker Status

Section 201. Adjustment of Status

The DHS Secretary shall adjust the status of any undocumented aliens who apply for the guestworker program within 12 months after the date of enactment and if the guestworker is employed by a U.S. employer.

Section 202. Enhanced Civil Penalties for Employed of Unauthorized Aliens After Termination Date for Adjustment of Status

The DHS Secretary shall impose civil penalties upon any U.S. employer that knowingly employs an unauthorized alien after the expiration of the application period. The employer is also barred from participation in the program for several years based on the number of violations.